

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Martin C. Ashman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	97 C 6328	DATE	1/16/2002
CASE TITLE	Robin Hollis vs. Joel M. Nuby, et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter memorandum opinion and order. Plaintiff's motion to vacate order of voluntary dismissal to reinstate case, and for leave to file second amended complaint and summons on third party defendants is denied.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials	FILED-ED3 02 JAN 16 PM 3:07 Date/time received in central Clerk's Office	2 number of notices	Document Number 40
			JAN 16 2002 date docketed	
			<i>m</i> docketing deputy initials	
			1/16/2002 date mailed notice	
			IS mailing deputy initials	

U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOCKETED

JAN 16 2002

ROBIN HOLLIS,

Plaintiff,

v.

**JOEL M. NUBY, a.k.a./d.b.a. J. NUBY
HOME IMPROVEMENT COMPANY,
JAMES WIDEN, GARY JONES, and
NEIGHBORHOOD HOUSING SERVICES
INC.,**

Defendants.

Case No. 97 C 6328

Magistrate Judge

Martin C. Ashman

MEMORANDUM OPINION AND ORDER

Robin Hollis seeks relief from this Court's December 8, 2000 order granting Hollis's Motion for Voluntary Dismissal without prejudice. *See* Fed. R. Civ. P. 41. Hollis asks this Court to grant relief pursuant to clause two or clause six of Federal Rule of Civil Procedure 60(b).

Relief under Rule 60(b) is an extraordinary remedy that is granted only in exceptional circumstances. *Provident Sav. Bank v. Popovich*, 71 F.3d 696, 698 (7th Cir. 1995). One such circumstance is where the moving party presents "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)." Fed. R. Civ. P. 60(b)(2). Another such circumstance is where the moving party presents "any . . . reason [besides the other five enumerated reasons contained in Rule 60(b)] justifying relief from the operation of the judgment." Fed. R. Civ. P. 60(b)(6). A motion pursuant to Rule 60(b) must

be made within a reasonable time, and a motion pursuant to Rule 60(b)(2) must be made not more than one year after the order was entered. Fed. R. Civ. P. 60(b).

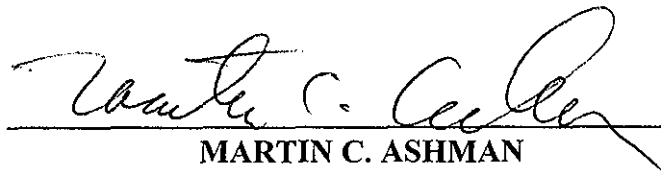
First and foremost, we deny Hollis's motion under Rule 60(b)(2) because her motion was filed more than one year after this Court's December 8 order was entered. Hollis filed the instant motion on January 7, 2002. But even if that were not the case, we would deny Hollis's motion under Rule 60(b)(2) on substantive grounds. She has failed to present this Court with any facts to show that her "newly discovered evidence" is actually new. She has also failed to present this Court with any facts to show that she could not have discovered her "newly discovered evidence" with due diligence prior to the entry of this Court's December 8 order. Hollis only provides this Court with the most general statements to support her motion such as "Plaintiff . . . identified new evidentiary matters, and additional, relevant facts." (Pl.'s Mot. Vacate ¶ 3.) General statements of this sort are wholly deficient to support a motion for extraordinary relief under Rule 60(b)(2).

The same problems plague Hollis's motion under Rule 60(b)(6). Because Hollis has failed to present any facts to show that her motion was filed within a reasonable time, we deny Hollis's motion under Rule 60(b)(6) as untimely. Alternatively, we deny Hollis's motion under Rule 60(b)(6) because she has failed to present any facts to show that extraordinary relief under Rule 60(b)(6) is warranted. In this regard, we cannot even discern the basis of Hollis's motion under Rule 60(b)(6).

* * *

For the reasons stated, this Court denies Hollis's Motion to Vacate. We note that neither this order nor this Court's December 8 order precludes Hollis from filing a new lawsuit.

ENTER ORDER:



MARTIN C. ASHMAN
United States Magistrate Judge

Dated: January 16, 2002.

Copies have been mailed to:

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